



INTELLECTUAL PROPERTY
402-391-4448

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May 10, 2009

Commissioner for Patents
Box: 1450
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: WELCH, JAMES D. Titled: "METHOD OF
PROVIDING AUDIO FORMAT PROFESSIONAL INFORMATION UPDATE SERVICE
FOR PAYMENT VIA INTERNET";

Serial No.: 10/796,162
Filed: 03/09/2004

Art Unit: 3625
Examiner: Pond, R.

APPELLANT'S BRIEF ON APPEAL

Dear Sir;

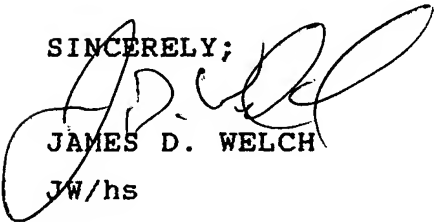
This is an appeal from the Final office Action dated
04/02/2008, finally rejecting claims 1-27.

Please find accompanying paperwork providing:

- A) This Identification Cover Page;
- B) A Table of Contents;
- C) Real Party in Interest;
- D) Related Appeals and Interferences;
- E) Status of Claims;
- F) Status of Amendments

- G) Summary of Claimed Subject Matter;
- H) Grounds of Rejection;
- I) Grouping of Claims;
- J) Argument Pages;
- K) Claims Appendix;
- L) Evidence Appendix;
- M) Related Proceedings.

SINCERELY;

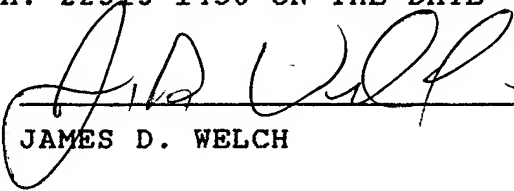

JAMES D. WELCH

JW/hs

enc.

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JAMES D. WELCH

5/06/09
DATE



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REAL PARTY IN INTEREST

The real party is JAMES D. WELCH.

RELATED APPEALS AND INTERFERENCES

No other Appeal or Interference is known to the Appellant that will have a bearing on the Board's opinion or affect the present Appeal.

STATUS OF CLAIMS

The Final Action dated 04/02/2008 provided that the status of the Claims 1 - 27 is as follows:

Claims allowed: none

Claims object to: none

The references cited are provided in the Grounds Of Rejection Section in this Brief. The primary reference applied under 35 USC 103(a) is Audible.com (a collection of prior art documenting Audible, Inc. business Methods cited in PTO-892, items U pages 1-3 and V pages 1-11).

Claims 1, 6, 7, 9-12, 14, 19 and 21-27 are further rejected in view of BW (PTO-892, Item X, pages 1-2) further in view of Lawcast (Paper #20070102, PTO-892, Item: V, pages 1-2).

Claims 2-5 are further rejected using BW (PTO-892, Item X) and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claims 1 and 12, further in view of Boyers (PTO 892, Item VW).

Claim 8 is further rejected using BW (PTO-892, Item X, pages 1-2), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claim 1, further in view of Rosenblum (PTO-892, Item WV).

Claim 15-18 are further rejected using BW (PTO-892, Item X, pages 1-2), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claims 1 and 12, further in view of Rosenblum (PTO-892, Item WV), further in view of Katz (US 5,926,624 assigned to Audible, Inc.)

Claim 20 is further rejected using BW (PTO-892, Item X), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claim 19, further in view of Sabludowsky (PTO-892, Item UU).

STATUS OF AMENDMENTS

There have been no amendments after the Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER

The Independent Claims are 1, 12, 19 and 23.

All Independent Claims are generally directed to a method of providing audio format periodically updated professional continuing education to clients for payment, to keep clients aware and informed of developments in at least one topical category. In that light it is noted that, in combination with Original Specification Disclosure on Pages 20-23, Fig. 1 shows the overall system involved comprises a number of Clients (C1)...(Cn) which access the Internet (IN) via Routers (R1)...(R3), to the end that a Website (WS) is accessed that provides access to a a number of Servers (BS1)...(BSn), which Servers contain programming the Client wishes to access. Fig. 2 shows that a very basic Method of Use of the System involves an Information Provider providing an Internet Website and making available information to the Website in Topical Professional Categories and making the information available via Periodic Subscription or Direct Pay Per Access, followed by Clients accessing the Audio Format Information via said Website and then advising the Information provider of having grasped the information. Fig. 3 further provides that Professional Licensing Bodies be brought into the loop so that a Client receives credit for Continued Education required by the Licensing Bodies.

Pages 8, (lines 1-31), through Page 9, (Lines 1-27), of the Original Specification provide additional support for said Claim 1 which is perhaps not directly disclosed in Figs. 1-3 and Pages 20-23 of the original Specification.

Claim 12 recites basics as in Claims 1, but further provides

specific example of programming, which the Original Specification supports on Page 12 thereof, in lines 1-25; and Claims 12 also recites a step f. which involves said client providing attestation of having received and listen-to-grasped the information accessed to the information provider and/or a professional licensing body. This is supported on Page 13, Lines 18-22 of the original Specification.

Claims 19 and 23 recite basics as in Claims 1 and 12, but adds re-accessing tagged information. This is supported on Page 10, Lines 4-16 of the Original Specification. It is noted that in particular, Claim 19 is very much a catch-all Claim, in that it includes limitations variously found in other Independent Claims.

It is note that Amendments to the Claims were entered during Prosecution to make clear that the method applies to audio format professional continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency or to provide basic education. Support for said Amendments is found in the Abstract on Page 37, in Line 3, of the Original Specification, as well as on Page 6, Lines 23-25.

GROUND OF REJECTION

As presented in a Final Action dated 04/02/2008:

I. Whether the Patent Office properly rejected Claims 1, 6, 7, 9-12, 14, 19 and 21-27 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods cited in PTO-892, items U pages 1-3 and V pages 1-11 in view of BW (PTO-892, Item X, pages 1-2) further in view of Lawcast (Paper #20070102, PTO-892, Item: V, pages 1-2)).

II. Whether the Patent Office properly rejected Claims 2-5 and 13 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods cited in PTO-892, items U pages 1-3 and V pages 1-11), BW (PTO-892, Item X) and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claims 1 and 12, further in view of Boyers (PTO 892, Item VW).

III. Whether the Patent Office properly rejected Claim 8 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods cited in PTO-892, items U pages 1-3 and V pages 1-11), BW (PTO-892, Item X, pages 1-2), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claim 1, further in view of Rosenblum (PTO-892, Item WV).

IV. Whether the Patent Office properly rejected Claim 15-18 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods contained in PTO-892, items U pages 1-3 and V pages 1-11), BW

(PTO-892, Item X, pages 1-2), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claims 1 and 12, further in view of Rosenblum (PTO-892, Item WV), further in view of Katz (US 5,926,624 assigned to Audible, Inc.)

V. Whether the Patent Office properly rejected Claim 20 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods contained in PTO-892, items U pages 1-3 and V pages 1-11), BW (PTO-892, Item X), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claim 19, further in view of Sabludowsky (PTO-892, Item UU).

GROUPING OF CLAIMS

It is noted that Claims 19, 20 and 27 include additional limitations over Claims 1 - 18 and 21-26. Although not distinguished by the Examiner, it is believed that the greater detail and specific limitations of Claims 19, 20 and 27 distinguish them over Claims 1 - 18 and 21 - 26.

ARGUMENT

Taker v. ~~Patent~~
+ Bdd

Claim Rejections- 35 U.S.C. 103.

A prima facie case of obviousness requires three elements:

Some suggestion of motivation in the references to
modify the reference of combine teachings;

Reasonable expectation of success;

The prior art reference of properly combined references
teach or suggest the claim limitations.

This is not overruled by the recent KSR case. The mere fact that prior art can be modified in a manner suggested by the PTO does not make the modification obvious unless the prior art suggests the modification---it is impermissible to use the prior art as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. The use of hindsight is not permitted to guide the picking and choosing from isolated disclosures to arrive at a new invention. The teachings or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP Section 2142.

Before proceeding, it is noted that the Examiner, in pre-final Actions, withdrew rejections based primarily on Allison 6,546,630, and based primarily on Darago et al. 6,170,014 in view of arguments by Applicant, holding said arguments were persuasive. The Examiner then cited non-Patent Audible.com materials to form

a rejection, and in a final Action, the Examiner continued a rejection based primarily on Audible.com materials while reminding the Applicant of his right to Appeal twice rejected Claims.

IN GENERAL

The argument in this Appeal is very simple. Regardless of whether the Examiner's arguments were primarily based on Allison, (which were overcome and withdrawn), or primarily on Darago et al., (which were overcome and withdrawn), or primarily on the non-Patent Audible.com materials, (which remains the Examiner's basis for rejection at this time), it is not at all clear how the Examiner's arguments show obviousness. None of the cited references are sufficient to guide one skilled in the art to arrive at the Present Claims, when the present Claims are each, properly, considered in whole. The Examiner has simply copied the Present Claims and then sought out elements from a lot of various references which have somehow relevant elements therein, and applied said references to one or another parts of the Present Claims without explanation as to how prior art directed that application. There is nothing in any reference identified by the Examiner that directs how to arrive at the sequence of steps in the Presently Pending Claims then pick and choose elements from the references used, and combine needed elements to arrive at the Present Claims, while rejecting other elements which are present in said prior art references! The Examiner has, without any doubt, used the Present Application as a Teaching Reference in order to arrive at the sequence of steps in the Presently Pending Claims. There is no other way to explain what the Examiner has done.

ISSUE I

Whether the Patent Office properly rejected Claims 1, 6, 7, 9-12, 14, 19 and 21-27 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods cited in PTO-892, items U pages 1-3 and V pages 1-11 in view of BW (PTO-892, Item X, pages 1-2) further in view of Lawcast (Paper #20070102, PTO-892, Item: V, pages 1-2)).

To begin, it is noted that prior rejections based on Patent art, (eg. Allison 6,546,630, and on Darago et al. 6,170,014), were overcome and withdrawn by the Examiner. Continuing, it is emphasized that the Applicant's position herein is very straight forward. It is analogous to arguing that a reference that describes motors, gears, nuts and bolts etc., absolutely does not obviate every invention that is comprised of them. Bluntly, the Audible.com materials disclose lots of "motors, gears, nuts and bolts", but provide absolutely no insight as to how they should be combined to arrive at an invention which is analogically related to the Present Invention. Nothing in the Audible.com materials remotely suggest the Required sequence of steps (omission of any thereof providing a way out of their infringement), in the Present Application Independent Claims, or remotely suggest that one skilled in the art should seek out the other references the Examiner cites in formulating a Section 103 rejection. Specifically, examining the Lawcast.com materials one finds disclosure of the practice of providing Audio format over the Internet. Examples in the "U" materials recite provision of Audiobooks, Newspapers, Magazines, Journals, Dow Jones Information, Radio Broadcasts, and Car Talk, Fresh Air, and Science Friday. Mention is made of targeting Financial, Technology and Pharmaceutical Companies and of sending emails to subscribers announcing new programs in their area. On page 3 of

the materials mention of the availability of an Audible Player which can be purchased over the Internet. Examining the Lawcast "v" materials one additionally finds mention of Lectures by Professors, Business People, Religious people and Interviews with Authors and the like. Pages 3 and 4 mention access to archival audio and hard to find stuff. Page 4 recites that the Audible programs are convenient, less expensive to access than recorded tapes and CD's, and that there are no commercials. Page 6 recites down-loading Audio programs and playing them back on a PC or via the Audio Player. Page 7 describes the Audio Player. Page 8 makes a marketing appeal. Pages 9-11 list available downloads. Page 11 mentions the information can be "up-to-date". Page 12 gives a summary of the Audible approach.

With the foregoing Audible.com disclosure of "motors, gears, nuts and bolts" in mind, please consider Claims 1 and 19 are repeated below:

1. A method of providing audio format periodically updated professional continuing education to clients for payment, to keep clients aware and informed of developments in at least one topical category, comprising the steps of:

- a. an information provider enabling internet web site accessibility;

- b. said information provider producing and making periodically updated audio format professional continuing education information available from audio information format machine readable storage via said web site in topical categories, and at least impliedly agreeing to provide a service of periodically updating the content thereof a continuing multiplicity of times, wherein the content of each update is primarily focused on developments since the

preceeding update, rather than on overcoming identified deficiency or establishing basic education;

c. making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of:

periodic subscription; and

direct pay per access event;

d. said information provider allowing at least one client to receive said audio format professional continuing education information via said web site by, using an internet accessing means, accessing said web site, and providing payment via a selection from the group consisting of:

proof of paid subscription; and

presenting payment means;

and identifying a professional continuing education information topical category of interest,

followed by said at least one paying client accessing, without requirement of intermediate steps, receiving audio format professional continuing education information in said topical category of interest;

said method further comprising:

e. said information provider updating the audio format professional continuing education information in the at least

one client identified topical category of interest in step d, and said at least one paying client in step d repeating step d after said audio format professional continuing education information is updated, and receiving the updated audio format professional continuing education information in said identified topical category of interest;

said method being further characterized in that the information in said client identified and received audio format professional continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency or to provide basic education.

19. A method of providing audio format periodically updated professional continuing education to clients for payment, to keep clients aware and informed of developments in at least one topical category while allowing said clients to, optionally, tend to other tasks not requiring of listening, comprising the steps of:

a. an information provider enabling internet web site accessibility;

b. said information provider producing and making periodically updated audio format professional continuing education information available from audio information format machine readable storage via said web site in topical categories, and at least impliedly agreeing to provide a service of periodically updating the content thereof a continuing multiplicity of times, wherein the content of each

update is primarily focused on developments since the preceeding update, rather than on overcoming identified deficiency or establishing basic education;

said audio format professional continuing education information being made available in topical categories selected from the group consisting of:

law related areas of:

patent, trademark, copyright, trade secret, computer, internet, unfair competition, high-tech, contract, tort, property, wills & trusts, criminal, evidence, constitutional, corporate, taxation, estate planning, securities, banking, bankruptcy, accounting, trade regulation, commodities, insurance, energy, environment and water, aviation, automobile, labor, social security, family, divorce, juvenile, workman's compensation, personal injury, product liability, employment practices, administrative, educational, mass communications, medical, farm, and military;

science, medical and technology related areas of:

astronomy, architecture, mathematics/statistics, physics, chemistry, engineering (electrical/electronic, nuclear, mechanical, civil, chemical, biological, genomic, construction, transportation, industrial, manufacturing, agricultural, computer, energy, environmental), horticulture/forestry, geology, food science, nutrition, psychology, zoology, veterinary, medicine (anatomy, physiology, bio-chemistry, cardiology, renal, gastro-intestinal, pulmonary, pathology, microbiology),

pharmacy, nursing, Scientology/Dianetics; and

specific approach to practice tips;

said audio format professional continuing education information being tagged with an identifying date and/or topic;

c. making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of:

periodic subscription; and

direct pay per access event;

d. said information provider allowing at least one client to receive said audio format professional continuing education information via said web site by, using an internet accessing means, accessing said web site, and providing payment via a selection from the group consisting of:

proof of paid subscription; and

presenting payment means;

and identifying a professional continuing education information topical category of interest,

followed by said at least one paying client accessing, without requirement of intermediate steps, and receiving audio format professional continuing education information in said topical category while optionally tending to other tasks

not requiring of listening;

e. said information provider updating the audio format professional continuing education information in the at least one client identified topical category of interest in step d, and said at least one paying client in step d repeating step d after said audio format professional continuing education information is updated, and receiving the updated audio format professional continuing education information in said identified topical category of interest;

f. said client, after step e, again accessing the audio format professional continuing education information originally provided in a practice of step d before the information is updated and accessed in step e, by again practicing step d with the addition that the identifying date with which said updated audio format professional continuing education information was tagged is entered along with the identifying of a professional continuing education information topical category of interest;

said method being further characterized in that the information in said client identified and received audio format professional continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency or establishing basic education.

Specifically note that nothing in the Audible.com materials remotely suggests, let alone requires a provider of Audio over the Internet produce audio programming in a category and that a paying client access it, followed by the provider updating the

programming in said category and said paying client accessing the updated programming. This is especially true as regards Claim 19 which further requires a paying client access not only the most recent updated program, but also again access a program prior thereto. Some of the "motors, gears, nuts and bolts" in the Audible.com materials might arguably be found listed in Audible.com materials, but nothing in them teaches the methodology of the Present Application Claims, or not including various of the "motors, gears, nuts and bolts" in the Audible.com materials in the Present Application Claims! The Examiner ignore this and simply copies Present Application Claims and then purports to show where elements in them are somehow like those disclosed in the Audible.com materials and then declares the Present Application Claims obvious in view thereof. This is simply not a proper approach to finding obviousness under Graham v. John Deere Co., which it is noted remains good law even in view of the nonsense of the KSR case, which is justified only in view of the horrendous facts that were present in that scenario.

In formulating the obviousness argument, the Examiner also cites materials BW (PTO-892, Item X, pages 1-2) further in view of Lawcast (Paper #20070102, PTO-892, Item: V, pages 1-2). Applicant responds by arguing nothing in Audible.com would lead one skilled in the art to find said materials, and even if they did, known Lawcast materials not only are silent on use of the Internet, but teach against its use. In Lawcast materials Jason Meyers of Lawcast is quoted as saying---"Even computers - no matter how good they get, you can't use them in the car, said Meyer. "You can't use them as you walk". The Lawcast materials do not suggest distribution of legal updates over the Internet, hence do not provide elements missing in Audible.com.

As for the Lawline.com BW (Item X) materials, they describe

providing Continuing Legal Education Webcast Courses. As such, as is the case with the Lawcast materials, they do not provide the missing teachings which would lead one skilled in the art to arrive at the Present Application Claims 1 and 19 recited above. Said lawcast and Lawline.com materials are simply recitation of more "motors, gears, nuts and bolts", so to speak but do not remotely hint at the "machine" made from them.

It is not argued that prior art does not describe acquiring audio books, newspapers, magazines, journals, Dow Jones information, radio broadcasts, Car Talk, Fresh Air, and Science Friday archived materials, and the like over the Internet. But that is ALL the prior art the describes. Nothing remotely suggests that an AGREEMENT should exist between a user and a provider of audio format programming wherein the provider agrees to provide a service of periodically updating the content of updated materials a continuing multiplicity of times, wherein the content of each update is primarily focused on developments since the preceeding update, rather than on overcoming identified deficiency or establishing basic education. The present invention has all that as required, and further requires that a user access at least two updates. Existing practice involving providing audio format program would not infringe the Present Claims, and does not even hint at imposing such requirments.

In conclusion, the Examiner's position is that because he has found numerous non-Patent art references which recite various elements of the Present Application Claims, said Present Application Claims are obvious. This is simply not a proper application of Section 103 Obviousness. Analogically, the Examiner's position is nothing more than arguing that since numerous non-Patent references recite various "motors, gears, nuts and bolts" then the combination Claimed Machine is obvious.

Applicant finds no remote suggestion in any cited references that would lead one skilled in the art to arrive at the methodology recited in the Independent Claims in the Present Application and therefore respectfully requested that the Examiner's Final Rejection be reversed and the Pending Claims Allowed.

ISSUE II

II. Whether the Patent Office properly rejected Claims 2-5 and 13 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods cited in PTO-892, items U pages 1-3 and V pages 1-11), BW (PTO-892, Item X) and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claims 1 and 12, further in view of Boyers (PTO 892, Item VW).

Applicant chooses not to directly respond to the Issue, choosing instead to cite the forgoing approach regarding Issue I is valid against this Issue. Since the Claims involved are Dependent, Applicant argues they should be Allowable in view of the Allowability of the Independent Claims.

ISSUE III

III. Whether the Patent Office properly rejected Claim 8 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods cited in PTO-892, items U pages 1-3 and V pages 1-11), BW (PTO-892, Item X, pages 1-2), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claim 1, further in view of Rosenblum (PTO-892, Item WV).

Applicant chooses not to directly respond to the Issue,

choosing instead to cite the forgoing approach regarding Issue I is valid against this Issue. Since the Claims involved are Dependent, Applicant argues they should be Allowable in view of the Allowability of the Independent Claims.

ISSUE IV

IV. Whether the Patent Office properly rejected Claim 15-18 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods contained in PTO-892, items U pages 1-3 and V pages 1-11), BW (PTO-892, Item X, pages 1-2), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claims 1 and 12, further in view of Rosenblum (PTO-892, Item WV), further in view of Katz (US 5,926,624 assigned to Audible, Inc.)

Applicant chooses not to directly respond to the Issue, choosing instead to cite the forgoing approach regarding Issue I is valid against this Issue. Since the Claims involved are Dependent, Applicant argues they should be Allowable in view of the Allowability of the Independent Claims.

ISSUE V

V. Whether the Patent Office properly rejected Claim 20 under 35 U.S.C. 103(a) as being unpatentable over Audible.com (a collection of prior art documenting Audible, Inc. business Methods contained in PTO-892, items U pages 1-3 and V pages 1-11), BW (PTO-892, Item X), and Lawcast (Paper #20070102, PTO 892, Item V, pages 1-2) as applied to Claim 19, further in view of Sabludowsky (PTO-892, Item UU).

Applicant chooses not to directly respond to the Issue, choosing instead to cite the forgoing approach regarding Issue I

is valid against this Issue. Since the Claims involved are Dependent, Applicant argues they should be Allowable in view of the Allowability of the Independent Claims.

CLAIMS APPENDIX

THE FOLLOWING IS A TRUE COPY OF THE TWICE REJECTED CLAIMS PENDING IN THE PRESENT APPLICATION, REJECTION OF WHICH IS APPEALED. ALL AMDNEMENTS HAVE BEEN ENTERED TO PROVIDE A CLEAN COPY.

1. (previoulsey amended): A method of providing audio format periodically updated professional continuing education to clients for payment, to keep clients aware and informed of developments in at least one topical category, comprising the steps of:

a. an information provider enabling internet web site accessibility;

b. said information provider producing and making periodically updated audio format professional continuing education information available from audio information format machine readable storage via said web site in topical categories, and at least impliedly agreeing to provide a service of periodically updating the content thereof a continuing multiplicity of times, wherein the content of each update is primarily focused on developments since the preceeding update, rather than on overcoming identified deficiency or establishing basic education;

c. making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of:

periodic subscription; and

direct pay per access event;

d. said information provider allowing at least one client to receive said audio format professional continuing education information via said web site by, using an internet accessing means, accessing said web site, and providing payment via a selection from the group consisting of:

proof of paid subscription; and

presenting payment means;

and identifying a professional continuing education information topical category of interest,

followed by said at least one paying client accessing, without requirement of intermediate steps, receiving audio format professional continuing education information in said topical category of interest;

said method further comprising:

e. said information provider updating the audio format professional continuing education information in the at least one client identified topical category of interest in step d, and said at least one paying client in step d repeating step d after said audio format professional continuing education information is updated, and receiving the updated audio format professional continuing education information in said identified topical category of interest;

said method being further characterized in that the information in said client identified and received audio format professional continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby

maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency or to provide basic education.

2. (original): A method as in Claim 1, which further comprises the step of a client providing attestation of having received and listen-to-grasped the information accessed to the information provider and/or a professional licensing body.

3. (original): A method as in Claim 2 in which said attestation is provided via the internet accessing means.

4. (previously amended): A method as in Claim 1, which further comprises the steps of said information provider and/or a professional licensing body making available a questionnaire to said client, said client completing said questionnaire and providing said completed questionnaire and/or results thereof to the information provider and/or professional licensing body as proof of having received and listened-to-grasped the information accessed.

5. (original): A method as in Claim 4 in which said questionnaire or the results thereof, once completed by said client, is provided to the information provider and/or professional licensing body via the internet accessing means.

6. (original): A method as in Claim 1, in which said audio format professional continuing education information comprises a journal summary.

7. (original): A method as in Claim 1, in which said audio format professional continuing education information further comprises live audio presentation in addition to said audio

information provided from audio format machine readable storage.

8. (original): A method as in Claim 1, in which said audio format professional continuing education information comprises a selection from the group consisting of:

an interview; and

expert commentary;

subscriber-client Hyde-Park; and

subscribing-client advertising programming.

9. (previously amended): A method as in Claim 1, which further comprises said information provider producing supplemental written and/or other visual format materials and making them available to a video screen on said internet accessing means, simultaneous with providing said audio format professional continuing education information.

10. (original): A method as in Claim 1, which further comprises said information provider providing a citation to a source of more information regarding a topic and said client accessing said source.

11. (previously amended): A method as in Claim 1, in which topical categories are selected from the group consisting of:

law related areas of:

patent, trademark, copyright, trade secret, computer,
internet, unfair competition, high-tech, contract, tort,

property, wills & trusts, criminal, evidence, constitutional, corporate, taxation, estate planning, securities, banking, bankruptcy, accounting, trade regulation, commodities, insurance, energy, environment and water, aviation, automobile, labor, social security, family, divorce, juvenile, workman's compensation, personal injury, product liability, employment practices, administrative, educational, mass communications, medical, farm, and military;

science, medical and technology related areas of:

astronomy, architecture, mathematics/statistics, physics, chemistry, engineering (electrical/electronic, nuclear, mechanical, civil, chemical, biological, genomic, construction, transportation, industrial, manufacturing, agricultural, computer, energy, environmental), horticulture/forestry, geology, food science, nutrition, psychology, zoology, veterinary, medicine (anatomy, physiology, bio-chemistry, cardiology, renal, gastro-intestinal, pulmonary, pathology, microbiology), pharmacy, nursing, Scientology/Dianetics; and

specific approach to practice tips.

12. (previously amended): A method of providing audio format periodically updated professional continuing education to clients for payment, to keep clients aware and informed of developments in at least one topical category, comprising the steps of:

a. an information provider enabling internet web site accessibility;

b. said information provider producing and making periodically

updated audio format professional continuing education information available from audio information format machine readable storage via said web site in topical categories, and at least impliedly agreeing to provide a service of periodically updating the content thereof a continuing multiplicity of times, wherein the content of each update is primarily focused on developments since the preceeding update, rather than on overcoming identified deficiency or establishing basic education;

said developments being in topical categories selected from the group consisting of:

law related areas of:

patent, trademark, copyright, trade secret, computer, internet, unfair competition, high-tech, contract, tort, property, wills & trusts, criminal, evidence, constitutional, corporate, taxation, estate planning, securities, banking, bankruptcy, accounting, trade regulation, commodities, insurance, energy, environment and water, aviation, automobile, labor, social security, family, divorce, juvenile, workman's compensation, personal injury, product liability, employment practices, administrative, educational, mass communications, medical, farm, and military;

science, medical and technology related areas of:

astronomy, architecture, mathematics/statistics, physics, chemistry, engineering (electrical/electronic, nuclear, mechanical, civil, chemical, biological, genomic, construction, transportation, industrial, manufacturing, agricultural, computer, energy, environmental), horticulture/forestry, geology, food science, nutrition,

psychology, zoology, veterinary, medicine (anatomy, physiology, bio-chemistry, cardiology, renal, gastro-intestinal, pulmonary, pathology, microbiology), pharmacy, nursing, Scientology/Dianetics; and

specific approach to practice tips;

c. making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of:

periodic subscription; and

direct pay per access event;

d. said information provider allowing at least one client to receive said audio format professional continuing education information via said web site by, using an internet accessing means, accessing said web site, and providing payment via a selection from the group consisting of:

proof of paid subscription; and

presenting payment means;

and identifying a professional continuing education information topical category of interest,

followed by said at least one paying client accessing, without requirement of intermediate steps, and receiving audio format professional continuing education information in said topical category of interest;

e. said information provider updating the audio format professional continuing education information in the at least one client identified topical category of interest in step d, and said at least one paying client in step d repeating step d after said audio format professional continuing education information is updated, and receiving the updated audio format professional continuing education information in said identified topical category of interest;

f. said client providing attestation of having received and listen-to-grasped the information accessed to the information provider and/or a professional licensing body;

said method being further characterized in that the information in said client identified and received audio format professional continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency or to provide basic education.

13. (previously amended): A method as in Claim 12 in which the step of said client providing attestation of having received and listen-to-grasped the information accessed involves said information provider and/or a professional licensing body making available a questionnaire to said client, said client completing said questionnaire and providing said completed questionnaire and/or results thereof to the information provider and/or professional licensing body as proof of having received and listened-to-grasped the information accessed.

14. (previously amended): A method as in Claim 12, which further comprises said information provider producing supplemental written and/or other visual format materials and making them

available to a video screen on said internet accessing means, simultaneous with providing said audio format professional continuing education information.

15. (previously amended): A method as in Claim 1 which further comprises the client downloading the information accessed onto a recording means to enable maintaining a permanent library record thereof.

16. (previously amended): A method as in Claim 12 which further comprises the client downloading the information accessed onto a recording means to enable maintaining a permanent library record thereof.

17. (previously amended): A method as in Claim 1 which further comprises the information provider continuing to make archived information available in topical categories tagged with a date of original availability, and in which the method further comprises said client accessing said archived information corresponding to that accessed in step d, after having accessed accessed information in topical category e, by identifying both the topical category and said date of original availability.

18. (previously amended): A method as in Claim 12 which further comprises the information provider continuing to make archived information available in topical categories tagged with a date of original availability, and in which the method further comprises said client accessing said archived information corresponding to that accessed in step d, after having accessed information in topical category e, by identifying both the topical category and said date of original availability.

19. (previously amended): A method of providing audio format

periodically updated professional continuing education to clients for payment, to keep clients aware and informed of developments in at least one topical category while allowing said clients to, optionally, tend to other tasks not requiring of listening, comprising the steps of:

a. an information provider enabling internet web site accessibility;

b. said information provider producing and making periodically updated audio format professional continuing education information available from audio information format machine readable storage via said web site in topical categories, and at least impliedly agreeing to provide a service of periodically updating the content thereof a continuing multiplicity of times, wherein the content of each update is primarily focused on developments since the preceeding update, rather than on overcoming identified deficiency or establishing basic education;

said audio format professional continuing education information being made available in topical categories selected from the group consisting of:

law related areas of:

patent, trademark, copyright, trade secret, computer, internet, unfair competition, high-tech, contract, tort, property, wills & trusts, criminal, evidence, constitutional, corporate, taxation, estate planning, securities, banking, bankruptcy, accounting, trade regulation, commodities, insurance, energy, environment and water, aviation, automobile, labor, social security, family, divorce, juvenile, workman's compensation, personal injury, product liability, employment practices, administrative, educational,

mass communications, medical, farm, and military;

science, medical and technology related areas of:

astronomy, architecture, mathematics/statistics, physics, chemistry, engineering (electrical/electronic, nuclear, mechanical, civil, chemical, biological, genomic, construction, transportation, industrial, manufacturing, agricultural, computer, energy, environmental), horticulture/forestry, geology, food science, nutrition, psychology, zoology, veterinary, medicine (anatomy, physiology, bio-chemistry, cardiology, renal, gastro-intestinal, pulmonary, pathology, microbiology), pharmacy, nursing, Scientology/Dianetics; and

specific approach to practice tips;

said audio format professional continuing education information being tagged with an identifying date and/or topic;

c. making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of:

periodic subscription; and

direct pay per access event;

d. said information provider allowing at least one client to receive said audio format professional continuing education information via said web site by, using an internet accessing means, accessing said web site, and providing payment via a selection from the group consisting of:

proof of paid subscription; and

presenting payment means;

and identifying a professional continuing education information topical category of interest,

followed by said at least one paying client accessing, without requirement of intermediate steps, and receiving audio format professional continuing education information in said topical category while optionally tending to other tasks not requiring of listening;

e. said information provider updating the audio format professional continuing education information in the at least one client identified topical category of interest in step d, and said at least one paying client in step d repeating step d after said audio format professional continuing education information is updated, and receiving the updated audio format professional continuing education information in said identified topical category of interest;

f. said client, after step e, again accessing the audio format professional continuing education information originally provided in a practice of step d before the information is updated and accessed in step e, by again practicing step d with the addition that the identifying date with which said updated audio format professional continuing education information was tagged is entered along with the identifying of a professional continuing education information topical category of interest;

said method being further characterized in that the information in said client identified and received audio format professional

continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency or establishing basic education.

20. (original): A method as in Claim 19 in which information is tagged with at least one key-word, and in which step f involves entering said at least one key word to enable quicker access to specific content is said audio format professional continuing education regardless of date.

21. (original): A method as in Claim 1 in which said client, while listening to said audio format professional continuing education, tends to other tasks not requiring of listening.

22. (original): A method as in Claim 12 in which said client, while listening to said audio format professional continuing education, tends to other tasks not requiring of listening.

23. (previously amended): A method of providing audio format periodically updated professional continuing education to clients for payment, to keep clients aware and informed of developments in at least one topical category, comprising the steps of:

a. an information provider enabling internet web site accessibility;

b. said information provider producing and making periodically updated audio format professional continuing education information available from audio information format machine readable storage via said web site in topical categories, and at

least impliedly agreeing to provide a service of periodically updating the content thereof a continuing multiplicity of times, wherein the content of each update is primarily focused on developments since the preceeding update, rather than on overcoming identified deficiency or establishing basic education;

c. making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of:

periodic subscription; and

direct pay per access event;

d. said information provider allowing at least one client to receive said audio format professional continuing education information via said web site by, using an internet accessing means, accessing said web site, and providing payment via a selection from the group consisting of:

proof of paid subscription; and

presenting payment means;

and identifying a professional continuing education information topical category of interest,

followed by said at least one paying client receiving audio format professional continuing education information in said topical category of interest at least twice, once before and once after information in said topical category is updated.

24. (original): A method as in Claim 23 which is further

characterized in that the information in said client identified and received audio format professional continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency.

25. (previously presented): A method as in Claim 1 which further comprises, in step d, practice of intermediate steps by said at least one paying client when accessing audio format professional continuing education information in said topical category of interest, said practiced intermediate steps being other than steps to determine professional competence deficiency of said at least one paying client.

26. (previously presented): A method as in Claim 12 which further comprises, in step d, practice of intermediate steps by said at least one paying client when accessing audio format professional continuing education information in said topical category of interest, said practiced intermediate steps being other than steps to determine professional competence deficiency of said at least one paying client.

27. (previously presented): A method as in Claim 19 which further comprises, in step d, practice of intermediate steps by said at least one paying client when accessing audio format professional continuing education information in said topical category of interest, said practiced intermediate steps being other than steps to determine professional competence deficiency of said at least one paying client..

EVIDENCE APPENDIX

There is no evidence, (as that terminology is used in the present context), to be disclosed. The copies of the Prior Art provided with the Original Appeal Brief is not provided herewith.

RELATED PROCEEDINGS

Applicant has no related proceedings pending under Sections 1.130, 1.131 or 1.132.